

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 1-9 remain pending in the present application.

Applicant notes with appreciation the Examiner's indication that claims 1-3 are allowed.

Claims 4 and 7 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,700,697 to Mundell et al. ("the '697 patent"). In addition, claims 5, 6, 8, and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '697 patent in view of U.S. Patent No. 3,903,869 to Bancalari ("the '869 patent"). Applicant respectfully traverses these rejections for the reasons presented below.

Independent claims 4 and 7 have been amended above to clarify the distending step recited in these claims. More specifically, these claims define the distending step as including the application of a distending force on a patient's neck tissue. This distending force is recited as being provided in a direction that is generally perpendicular to the surface of the patient where the distending force is being applied.

One skilled in the art would understand that the device taught by the '697 patent, while tilting the head back, does not apply such a distending force on the neck tissue. Instead of pulling the neck tissue outward with respect to the surface of the patient, the device taught by the '697 patent tilts the head back. It also prevents outward movement of the neck tissue due to the fact that the collar covers the neck tissue and is not affixed to the tissue in any way.

While tilting the head back as taught by the '697 patent may mitigate against apneas, it does not correspond to the claimed invention. Furthermore, the cited references do not teach or suggest modifying the '697 patent to provide the "distending force" as recited in the independent claims. For example, the '869 patent does not teach or suggest providing the claimed distending force.

SANDERS -- Appln. No.: 09/473,196

For the reasons presented above, applicant respectfully submits that independent claims 4 and 7 are not anticipated or rendered obvious by the cited references. In addition, claims 5, 6, 8, and 9 are also not anticipated or rendered obvious due to their dependency from independent claims 4 and 7. Accordingly, applicant respectfully requests that the above rejection of claims 4-9 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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